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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,001	12/29/2004	Erhard Beck	PC10427US	2591
23122	7590	09/27/2006	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			RODRIGUEZ, PAMELA	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/520,001

Applicant(s)

BECK ET AL.

Examiner

Pam Rodriguez

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/29/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. Figure 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The abstract of the disclosure is objected to because it should be in one paragraph form and in line 6 the word "means" is used. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

3. Claims 10, 12, and 13 are objected to because of the following informalities: throughout the text of the above identified claims, the term "ambience" is used. Typically the word "ambience" refers to a "feeling or mood associated with a particular place, thing, or person" (as defined in the Merriam Webster on-line dictionary). The

examiner suggests perhaps using the word –atmosphere—in place of the word “ambience” to reflect that the connecting channels lead into the open air, i.e., atmosphere, to better represent applicant's invention. Also, in the last line of Claim 12, the phrase “between cavity and ambience” should read –between the cavity and the atmosphere—in order for the claim to read more clearly. In line 13 of Claim 13, the term “a closing device” should read –one of said closing devices— to avoid any potential 112 second paragraph indefinite issues. And in line 16 of Claim 13 the term “a closing device” should read –another of said closing devices--, again to avoid any potential 112 second paragraph indefinite issues. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 10-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 10 and 13, the phrase “especially” renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). In other words, are the accumulation elements, valve elements, pressure-generation and driving elements part of the claimed subject matter or not?

Claim 10 recites the limitation "the ambience" in lines 10 and 12. There is insufficient antecedent basis for this limitation in the claim. (see also the examiner's note regarding the use of the term "ambience" in paragraph 3 above.

In line 2 of Claim 11, the phrase "the connecting channels include closing devices" is a duplicate recitation of lines 10-11 of Claim 10, from which Claim 11 depends therefrom.

In lines 1-2 of Claim 12, the phrase "with the connecting channels that include closing devices" is a duplicate recitation of lines 10-11 of Claim 10, from which Claim 12 depends therefrom.

Claim 13 recites the limitation "the ambience" in lines 10 and 12. There is insufficient antecedent basis for this limitation in the claim. (see also the examiner's note regarding the use of the term "ambience" in paragraph 3 above.

In lines 4-5 of Claim 15, the phrase "the closing device" is indefinite. It is unclear which of the plurality of closing devices previously claimed that applicant is referring to here.

In lines 2-3 of Claim 16, the phrase "the closing device" is indefinite. It is unclear which of the plurality of closing devices previously claimed that applicant is referring to here.

Claim 18 recites the limitation "the diaphragm" in the last line. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 10-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by WO document no. 01/40042 to Beck (see also U.S. Patent No. 6,682,325 which is the U.S. equivalent to the WO document '042).

Regarding Claim 10, Beck discloses a hydraulic unit for a hydraulic regulation device (see Figures 1 and 2), in particular for slip-controlled motor vehicle brake systems, comprising several hydraulic, mechanical and electrically operable functional elements arranged at an accommodating member 10, especially accumulation elements, valve elements, pressure-generation and driving elements (see Figures 1 and 2), comprising several pressure fluid channels interconnecting the functional elements and capable of providing a hydraulically switchable connection between at least one pressure fluid source and one pressure fluid consumer (see the translated abstract of the '042 document), as well as comprising a connection to a control device (inherently present) for actuating the functional elements, and comprising at least one cavity 5 associated with at least one functional element and disposing of means for bleeding (see the translated abstract of the '042 document), wherein two connecting channels (16,16, and the channel just above element 15 leading to element 9) that lead into the atmosphere are provided with closing devices 8,9, which hinder the ingress of fluid into

the cavity 5 and allow ventilation of the cavity 5 and a discharge of leakage fluid into the atmosphere (see the translated abstract of the '042 document).

Regarding Claim 11, Beck also discloses wherein the connecting channels include closing devices 8,9 which principally adopt a closing position, and in that the closing devices alternately are movable into an open position (see the translated abstract and Figure 2 of the '042 document).

Regarding Claim 12, see Claim 11 above and note that Beck further discloses that the closing devices 8,9 are designed as non-return valves movable to adopt an open position as a result of a pressure difference between the cavity 5 and the atmosphere (see the translated abstract of the '042 document).

Regarding Claim 13, see Claim 10 above and further note that Beck also discloses that one of the closing devices 8 opening in the direction of the cavity 5 is associated with the first connecting channel 16,16 so that pressure compensation in the cavity 5 takes place due to the passage of atmospheric air (see the translated abstract of the '042 document) and wherein associated with the second connecting channel (see Figure 2 and the connecting channel just above element 15 leading to element 9) is another of the closing devices which opens in the direction of the atmosphere and through which air and/or leakage of fluid is discharged into the atmosphere (see the translated abstract of the '042 document and Figure 2).

Regarding Claim 14, see diaphragm 12 associated with closing device 8 of the first connecting channel 16,16 (see Figure 2 of the '042 document and column 3 lines 11-13 of the U.S. equivalent Beck patent).

Regarding Claim 15, see Claim 14 above and Figure 2 of the '042 document.

Regarding Claim 16, see Figure 2 of the '042 document.

Regarding Claim 18, Beck discloses that the closing device 8 opening in the direction of the atmosphere is positioned at the accommodating member 10 in such a fashion that a weight of a defined quantity of accumulated leakage fluid involves an opening movement of the diaphragm 12 (see Figure 2 of the '042 document and column 3 lines 1-55 of the U.S. equivalent Beck patent).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO document no. 01/40042 to Beck in view of U.S. Patent No. 6,142,751 to Krauter et al.

Regarding Claim 17, Beck discloses most all the features of the instant invention as applied above and further including that the connecting channels open into accommodating bores (see bores for elements 8 and 9 of the '042 document) for the closing devices 8,9 (see Figure 2 of the '042 document).

However, Beck does not specifically disclose that the closing devices are inserted into the accommodating bores in a form-fit or frictionally engaged manner.



Krauter et al are relied upon merely for their teachings of a hydraulic unit similar to Beck's (see Figures 1 and 2) having connecting channels 101,102,103 which open into accommodating bores 30 and 31 of closing devices 106 and 107 and that the closing devices 106 and 107 are inserted into the accommodating bores 30, 31 in a form-fit, i.e., press-fit, manner (see Claim 6 of the patent).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the closing devices of Beck to be inserted into the accommodating bores in a form-fit manner as taught by Krauter et al as a matter of design preference dependent upon the manufacturing and design constraints of the hydraulic unit. As long as the closing devices are adequately housed in the accommodating bores, the means used to secure them is arbitrary.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

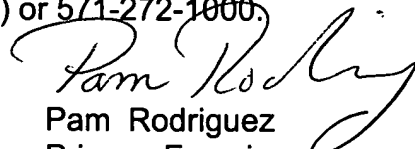
U.S. Patent No. 6,113,364 to Haecker et al, U.S. Patent No. 5,569,025 to Bendel et al, and U.S. Patent No. 4,522,170 to Lenk et al all disclose hydraulic units having cavities with connecting channels with some sort of closing devices which hinder the ingress of fluid into the cavity.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 571-272-7122. The examiner can normally be reached on Mondays 5:30 AM -4 PM and Tuesdays 5 AM -11 AM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Pam Rodriguez  
Primary Examiner  
Art Unit 3683  
9/25/06

Pr  
09/25/06